



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.16959 of 2019

and

W.M.P. (MD) No.13531 of 2019

S.Krishnamoorthi

... Petitioner

-Vs-

1.The Tahsildar,
Kallikudi Taluk,
Madurai District.

2.Ettappan

3.Karuppaiah

4.Manikandan

5.Karuppaiah

... Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Certiorari, calling for the records relating to the impugned notice to the 1st respondent in Na.Ka.No.02/2019/A1 dated 25.07.2019 and quash the same as illegal.

For Petitioner : Mrs.Lakshmi Gopinathan

For Respondents : Mr.B.Bhagawathy, G.A. For R1

ORDER

The prayer in this writ petition is for a Writ of Certiorari, calling for the records relating to the impugned notice of the 1st respondent in Na.Ka.No.02/2019/A1 dated 25.07.2019 and quash the same as illegal.

2.Heard Mrs.Lakshmi Gopinathan, learned counsel appearing for the petitioner and Mr.B.Bhagawathy, learned Government Advocate appearing for the respondents. Since no adverse order is going to be passed against the respondents 2 to 5, notice to them is dispensed with.

3.In the native village of the petitioner i.e., Nallamanaickenpatti village at Kallikudi Taluk, Madurai District, it seems that the revenue authorities decided to establish a burial ground for Arunthathiyar people in a particular locality, which seems to have been opposed by others, mainly, the petitioner and his community people for various reasons. In this regard, it



seems that, on 12.02.2019, a woman from Arunthathiyar community died and in order to bury the body of the deceased, when attempt had been made by the said community people, there had been a commotion between the petitioner group and other community group, which invited the intervention of the revenue people with the police force and accordingly, they dispersed the warring two groups in order to maintain law and order in that locality. Therefore, in order to settle the issue amicably between the two groups or communities in that locality, it seems, the revenue authorities decided to have a peace committee meeting and accordingly, a notice in Na.Ka.No.02/2019/A1 dated 25.07.2019 has been issued by the 1st respondent, directing the parties including the petitioner to appear before the 1st respondent for peace committee meeting scheduled to be held on 27.07.2019 at 12.00 noon. Challenging the same, this writ petition has been filed.

4. Heard the learned counsel appearing for the petitioner, who would submit that, insofar as the proposal to establish a burial ground for the Arunthathiyar community people, the main objection on the side of the petitioner was that, the said land earmarked for such burial ground is a water body and in that water body, if the burial ground is established, that will have an impact in that village as no such exploitation has been made in the water bodies. Therefore, in order to prevent the authorities to establish a burial ground in the water body, the petitioner's party approached this Court and filed a writ petition in W.P.(MD) No.3257 of 2019, where in W.M.P.(MD) No.2553 of 2019, the learned Judge of this Court by order dated 14.02.2019 passed the following order:

"The learned counsel appearing for the writ petitioner states that the Authorities are planning to install a crematorium inside the water body. The Authorities has enclosed the field map in the typed set of papers. It has been consistently held that the water body will have to be preserved and protected as such.

In fact, the Hon'ble Supreme Court has given a call for restoration of even these water bodies that have fallen into the disuse. Hence, there shall be an order of interim injunction."

5. Relying upon the said order passed by this Court, the learned counsel appearing for the petitioner submitted that, there has been a prohibitory injunction passed by this Court restraining the respondents i.e., the revenue officials from establishing a burial ground in the particular locality, which according to the petitioner is a water body and the said writ petition is still pending consideration before this Court. The attempt now made by the 1st respondent to have the peace committee meeting is nothing but a ploy to delay the way for taking a decision to establish the burial



ground in the very same locality and for which, it is the apprehension of the petitioner that, the 1st respondent is trying to convince the petitioner in the peace committee to get his consent and therefore, only on that ground and in such situation, the petitioner is constrained to approach this Court to challenge the said notice dated 25.07.2019 in this writ petition with the aforesaid prayer.

6.I have heard the learned Government Advocate appearing for the 1st respondent, who would submit that, only in order to maintain the law and order in that locality, such a peace committee meeting was proposed and on 27.07.2019, the petitioner did not turn up and some lame excuse had been given by sending a letter dated 26.07.2019.

7.The learned Government Advocate would further submit that, insofar as the establishment of burial ground is concerned, since the issue has been ceased by this Court in the writ petition referred to above, where, an interim order of injunction also was granted, the decision, to finalise the burial ground in that particular locality, which according to the petitioner is a water body, can only be decided after the outcome of the decision to be made by this Court in the said writ petition. Till such time, if any law and order issue is arisen in that locality in future, how to tackle the same is the only Agenda to be decided in the peace committee meeting. Therefore, let the petitioner appear before the 1st respondent, for which, a date can also be given and accordingly, the 1st respondent would explore the possibility of amicable settlement only on the point of issue of maintaining the law and order.

8.Having regard to the said submissions made by both sides and having gone through the materials placed before this Court, this Court feels that this writ petition can be disposed of, with the consent of both sides, at the stage of admission itself, with the following direction:

"The petitioner can appear before the 1st respondent in order to enable the 1st respondent to make a solution from the point of view of law and order issue in that locality and it is made clear that, such eventuality, if the petitioner appears before the 1st respondent, the said authority shall not in any way compel or pressurize the petitioner to accept for the proposal of the 1st respondent/Government to establish a burial ground in the water body in that village as the said issue is already pending before this Court in W.P.(MD) No.3257 of 2019, where, an injunction has already been granted by this Court on 14.02.2019. Therefore, the



decision to establish the burial ground in the particular locality shall be undertaken by the 1st respondent/State Government authorities only depending upon the outcome of the decision to be made by this Court in W.P.(MD) No.3257 of 2019. However, during the interregnum, it is open to the revenue authorities to sort out the issue and settle the same amicably between the two groups in order to avoid fresh law and order issue in that locality and in that endeavour, without establishing a burial ground in the particular locality, an alternative mechanism can be explored and can be decided with the consent of both groups or both sides amicably. For the said purpose, the 1st respondent can have the peace committee meeting, where the petitioner can be summoned and once such summon is issued and the date is given, as per the schedule of the 1st respondent, the petitioner shall appear before the 1st respondent and give his views in writing and the same would be considered by the 1st respondent and in accordance with the aforesaid direction, a proper decision would be taken by the 1st respondent.

9. With this direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To
The Tahsildar,
Kallikudi Taluk,
Madurai District.

+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-78903[F] dated 31/07/2019)

+1 CC to M/s.SPL GP (SR-79228[F] dated 01/08/2019)
ARUL

Order made in
W.P. (MD) No.16959 of 2019
and
W.M.P. (MD) No.13531 of 2019
31.07.2019